

REMARKS/ARGUMENTS

Claim Rejections under 35 USC § 102(b)

Claims 1-4 stand rejected as allegedly anticipated by Settlemayer (US 6,010,048). More specifically, the Examiner asserted that Settlemayer “discloses the anchor mechanism...the carrier including a push button actuator...wherein the push-button actuator (See Figures 2 & 8) extends through and is at least partially exposed by the opening in the housing (See Figure 2) thus permitting operator manipulation of the push-button actuator...and the sliding cover being user-transitional between the closed position in which the push-button is blocked from passing through the opening and the open position in which the push-button is permitted to pass through the opening.” Applicant respectfully traverses the rejection.

A claim is anticipated under §102(b) only if “each and every [claim] limitation is found either expressly or inherently in a single prior art reference.” *Celeritas Techs. Ltd. v. Rockwell Int’l Corp.*, 150 F.3d 1354, 1361 (Fed. Cir. 1998). In other words, a reference must disclose each and every limitation of a claim as those limitations are arranged in the claim. *See, e.g., Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). Merely identifying within all of the various parts of the claimed subject matter is not anticipation, rather “[t]here must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention.” *Scripps Clinic & Research Found. v. Genentech, Inc.*, 927 F.2d 1565, 1576 (Fed. Cir. 1991). Further, “[t]he Patent and Trademark Office (“PTO”) determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction “in light of the specification as it would be interpreted by one of ordinary skill in the art.” *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364[, 70 USPQ2d 1827] (Fed. Cir. 2004). Indeed, the rules of the PTO require that application claims must “conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description.” 37 CFR 1.75(d)(1).” MPEP § 2111.

In the instant case, Applicant respectfully submits that Settlemayer fails to disclose each and limitation of claim 1, as arranged, as required to support a finding of anticipation. More specifically, claim 1 includes the limitations that the arrangement includes 1.) a push button actuator, 2.) a sliding cover and 3.) that the sliding cover is user transitional between a closed position in which the push button is blocked from passing through the opening and the open position in which the push button is permitted to pass through the opening. In sum, upon providing the claims their broadest reasonable interpretation consistent with the specification, it is seen that Settlemayer fails to disclose each and every limitation of the claims, as arranged.

Claim 1 recites that the arrangement comprises a push-button actuator. A push-button actuator and its operation, is shown, for example, in FIGS. 2, 3, 14a and 14b and is further discussed in paragraph [0055] of the Applicant's disclosure. Paragraph [0055] recites, "[a] resilient biasing mechanism 50 in the form of a coil spring is provided to urge the push button actuator 46 toward an un-actuated configuration as is shown in FIG. 2. In this manner, the pushing shoulder 52 will normally be moved away from the latch body 60 unless purposefully depressed by the operator to cause the assumption of the unlatching configuration of the carrier foot." (Emphasis added). Accordingly, in view of the above figures and description, one having ordinary skill in the art would reasonably interpret a "push-button actuator" as comprising a user-actuable button that is depressable by an operator, and which is preferably spring biased. Settlemayer does not disclose a push-button actuator, but rather describes a lock body 94 that is rotatable within a lock housing 92 between locked and unlocked positions. Col. 4, lines 21-28 of Settlemayer recites, "[t]he lock body includes a lock plate 96 which is pivoted toward or away from tab 90 when the lock is set or released, respectively." As shown in FIGS. 3 and 4 of Settlemayer, such pivoting of the lock plate "toward or away from tab 90" is accomplished by rotating lock body (and lock plate 96) in counter-clockwise or clockwise direction, respectively. Accordingly, Settlemayer does not explicitly or inherently disclose a push-button actuator.

With regard to Applicant's sliding cover, the Examiner asserts that FIG. 8 discloses the claimed structure. However, other than broadly asserting that FIG. 8 discloses the claimed structure, the Examiner provides no further information regarding the specific structure of Settlemayer's alleged sliding cover. A sliding cover is described at paragraph [0056] of the

Applicant's disclosure wherein it is recited that, "the cover 110 can be moved into a downward position when the push a [sic] button actuator 46 of the lock mechanism is depressed." Paragraph [0057] further recites, "the sliding operation of the cover 110 may be accomplished by any suitable configuration, but a tongue-in-groove arrangement is preferably utilized." Accordingly, in view of the above description, one having ordinary skill in the art would reasonably interpret Applicant's sliding cover as being capable of sliding movement. Applicant respectfully submits that Settemayer does not explicitly or inherently disclose the claimed structure. Indeed, even where the Examiner asserts that the unidentified structure illustrated in FIG. 8, which abuts the lock body and which appears to comprise an orifice for receiving a key therethrough, comprises a cover, such cover is not capable of sliding movement. Indeed, it more appears that the unidentified structure of Settemayer comprises a means for fastening the lock body to the housing, e.g., a threaded fastener for securing the lock body within the housing. Accordingly, Settemayer does not disclose a sliding cover.

Finally, as Settemayer does not disclose a push-button actuator or a sliding cover, it necessarily follows that Settemayer also does not disclose that the sliding cover is "user transitional between a closed position in which the push-button is blocked from passing through the opening and an open position in which the push button is permitted to pass through the opening."

Accordingly, because Settemayer fails to disclose each and every limitation of claim 1, as arranged, Applicant respectfully submits that claim 1, and those claims depending therefrom, are not anticipated by Settemayer.

In view of the above, the rejection should be withdrawn.

Claim Rejections under 35 USC § 103(a)

1. Claims 5-12, 14, 15, 17, 18 and 21-29 stand rejected as allegedly obvious in view of Settlemayer and Brunner (US 5,377,890). Applicant respectfully traverses the rejection.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

As noted with regard to the rejection of claims 1-4 under 35 USC § 102(b), Applicant respectfully submits that Settlemayer does not disclose (or suggest) 1.) a push-button actuator, 2.) a sliding cover, or 3.) a sliding cover that is user transitional between a closed position in which the push button is blocked from passing through the opening and the open position in which the push button is permitted to pass through the opening. Similarly, Brunner does not teach or suggest such features.

Accordingly, because the combination of Settlemayer and Brunner fails to teach or suggest each and every limitation of claim 1 as required to support a *prima facie* case of obviousness, claims 5-12, 14, 15, 17, 18 and 21-29, by virtue of their dependency from claim 1, are also nonobvious.

The rejection should be reversed.

2. Claims 13, 16, 19 and 20 stand rejected as allegedly obvious in view of *Settlemayer*, *Brunner and McIntosh* (US 6,050,044). Applicant respectfully traverses the rejection.

As noted with regard to the rejection of claims 1-4 under 35 USC § 102(b) and 5-12, 14, 15, 17, 18 and 21-29 under 35 USC §103(a), Applicant respectfully submits that neither *Settlemayer* nor *Brunner* disclose or suggest 1.) a push-button actuator, 2.) a sliding cover, or 3.) a sliding cover that is user transitional between a closed position in which the push button is blocked from passing through the opening and the open position in which the push button is permitted to pass through the opening. Similarly, *McIntosh* does not teach or suggest such features.

Further, “[i]n order to rely on a reference as a basis for rejection of an applicant’s invention, the reference must either be in the field of applicant’s endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned.” MPEP § 2141(a), citing *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). *See also In re Deminski*, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); *In re Clay*, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992) (“A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor’s endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor’s attention in considering his problem.”); *Wang Laboratories Inc. v. Toshiba Corp.*, 993 F.2d 858, 26 USPQ2d 1767 (Fed. Cir. 1993); and *State Contracting & Eng’g Corp. v. Condotte America, Inc.*, 346 F.3d 1057, 1069, 68 USPQ2d 1481, 1490 (Fed. Cir. 2003) (where the general scope of a reference is outside the pertinent field of endeavor, the reference may be considered analogous art if subject matter disclosed therein is relevant to the particular problem with which the inventor is involved). Accordingly, Applicant respectfully submits that the Examiner’s citation to *McIntosh* is improper as *McIntosh* bears no relationship, whatsoever, to load carriers for vehicles, and particularly, load carriers mountable to a roof of a vehicle. Additionally, *McIntosh* is not reasonably pertinent as it does not logically commend itself to the inventor’s attention considering the problem. Indeed, *McIntosh* describes building blocks, which may be of a relatively small size, e.g., *Lego®* brand toy building blocks, and in no way discusses load carriers for vehicles or

problems associated therewith. Accordingly, there is simply no motivation to select McIntosh for combination.

In view of the above, because the combination fails to teach or suggest each and every limitation of claim 1, and those claims depending therefrom, and because there is simply no motivation to select McIntosh for combination with Settelmayer and Brunner and/or McIntosh is wholly non-analogous art, Applicant respectfully submits that claims 13, 16, 19 and 20 are nonobvious in view thereof.

The rejection should be reversed.

AN ADVISORY ACTION STATING THE EXAMINER'S POSITION IS RESPECTFULLY REQUESTED AT EARLIEST CONVENIENCE.

The undersigned representative requests any extension of time that may be deemed necessary to further the prosecution of this application.

The undersigned representative authorizes the Commissioner to charge any additional fees under 37 C.F.R. 1.16 or 1.17 that may be required, or credit any overpayment, to Deposit Account No. 14-1437, referencing Order No. 7298.0039.CNUS01.

In order to facilitate the resolution of any issues or questions presented by this paper, the Examiner should directly contact the undersigned by phone to further the discussion.

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Respectfully submitted,



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